

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 30th March 1999
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin and A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc), and Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Chaplain took the prayers.

Welcome to Visitors

The Speaker: Now, hon. members, joining us this morning in the public gallery are Mr Jimmy Knapp, General-Secretary of the National Union of Rail, Maritime and Transport Workers, and Mr Brian Orrell, the General-Secretary of the National Union of Marine, Aviation and Shipping Transport Officers. We welcome both of you gentlemen to the House this morning and express the wish that you will have both an enjoyable and a worthwhile visit to the Island.

Members: Hear, hear.

Local Authorities – Auditing of Accounts – Question by Mr Cannan

The Speaker: Hon. members, we then turn to the business on our order paper, item 1, and I call upon the hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I ask the Minister for the Treasury:

What action is your department taking against the following local authorities which have failed to present their accounts for audit by 30th September 1998 and which still remain unsigned by the public auditors as at 19th February 1999 -

Castletown Commissioners;

Peel Town Commissioners;

Port Erin Village Commissioners;

Port St Mary Village Commissioners;

Andreas Parish Commissioners;

Braddan Parish Commissioners;

German Parish Commissioners;

Malew Parish Commissioners;

Andreas Burial Ground Authority;

Jurby Burial Ground Authority;

Castletown and Malew Elderly Persons Housing Committee;

*Northern Parishes Refuse Collection Board;
Peel and Western District Housing Committee;
Marashen Crescent Housing Committee Port Erin; and
Royal British Legion Housing (IOM) Ltd?*

The Speaker: I call upon the Minister for the Treasury, the hon. member Mr Corkill, to reply.

Mr Corkill: Thank you, Mr Speaker. Hon. members, I thank the hon. member for Michael for raising this, as public accountability, whether by central or local government, is an important issue and I am concerned about the failure of some local authorities to deliver their accounts into the public domain on a satisfactory and timely basis.

I would like to clarify aspects of the hon. member's question before I explain our intended action.

The list in the question of local authorities whose accounts for the year ended 31st March 1998 were not signed by the public auditors by 19th February 1999 is confirmed as being accurate and is as stated in the Orange Book which was laid before the March sitting of Tynwald Court. However, so far as I am aware, at no point has a list been published of local authorities who have failed to submit their accounts for audit by 30th September 1998 and it would be incorrect to assume that the majority of authorities referred to in the hon. member's question are in breach of that date.

For the benefit of hon. members who may be unaware of the significance of the date of 30th September 1998, local authority accounts are required, under the Accounts and Audit Regulations 1984 to be submitted for audit within six months of the end of the financial year. In the case of burial authorities, whose year end is 31st December each year, then their date is 30th June 1998.

There was only one local authority who actually failed to submit its accounts on time last year, although some of the local authority accounts so submitted may have only fulfilled the regulations requirements in name only.

The reason why the publication of the audited accounts takes so long is partly due to local authorities seeing the six-month period as a reasonable delay prior to commencing accounting rather than a statutory maximum, and this is partly due to traadylloar, but more significantly, due to the very nature of the present structure and functions of Manx local government. In many cases local authorities lack the size to have a proper skills base to prepare their own accounts or to have a sense of urgency in even simple acts such as signing off their accounts. A simple event such as the illness of the part time clerk can mean delay. As a result of all these factors, matters drift into the December time of year, out of the time scheduled by the public auditors for their public sector tasks into the time allocated for their commercial audits.

To illustrate the point, the Treasury is also bound by the Accounts and Audit Regulations 1984 and, in preparing central government's accounts, attempts to set standards of public accountability for other public bodies to emulate. Central government's accounts are submitted for audit six weeks after the year end, not six months after the year end, and the audited

accounts are laid before the July sitting of Tynwald. Treasury's auditors have staff time allocated to accommodate that accounting cycle.

The hon. member asks what action Treasury is taking in this situation. I must point out that Treasury is not responsible for local authority accounts and that it only publishes their audit certificates in the Orange Book because it appoints the local authority auditors under the Audit Act 1983. Local authorities are of course independent bodies created by statute, and the central government department responsible for them is the Department of Local Government and the Environment.

Of the 15 bodies referred to in the hon. member's question, 13 bodies have or are about to issue their audited accounts. Notwithstanding that, on 22nd March 1999, an Audit Committee meeting was held with officers from the Treasury and the Department of Local Government and the Environment with the public auditors, and the prime purpose of that meeting was to seek to address the current poor performance of public accounting in local government. Regrettably it is necessary to hold this meeting every year, after the publication of the Orange Book, and it is not just a question of timing, as some local authorities carry qualified audit reports.

Over the last three or four years the number of authorities which were a cause for more serious concern were identified and those cases, for the most part, have been satisfactorily dealt with. The concern now is the general issue of instances of poor accounting standards and instances of indifference to the timing requirements of public accountability.

At this year's meeting it was agreed that the officer from the Department of Local Government and the Environment would write to all local authorities exhorting them to improve their accounting performance and warning that prosecutions for failure to submit their accounts by the latest date will be considered at Audit Committee meetings shortly after 30th June this year and 30th September cut-off dates. So far as I am aware this letter is still in the pipeline but will be issued shortly.

It will be a source of regret if it becomes necessary to legally compel a Manx local authority to perform such a simple but vital task. Such action has been considered but has been avoided in the past. However, in the absence of progress on local government reorganisation it is intended that prosecutions will, if necessary, be invoked in 1999.

Ratepayers are entitled to know what they have funded and that there has been proper stewardship of public funds, and local authorities should be keen to demonstrate this. I am pleased that the hon. member has raised this issue, as the routine, timely publication of local authority accounts may on the surface be mundane but I believe it is a vital element of democratic accountability. Absence of proper public accountability raises serious questions, not least that if a local authority cannot properly account for the discharge of its statutory duties, what else is it failing to accomplish properly?

Mr Cannan: Mr Speaker, I thank the Treasury minister for his very comprehensive reply but there are one or two supplementary questions which I would like to ask him. The first one: what is the point in the legislature of the Isle of Man debating and making statute the Audit Act 1983 and the Accounts and Audit Regulations 1984 if they are not adhered to by government departments and government and statutory authorities, whilst the legislature passes the Companies Act and the Fees and Duties Act 1989 in respect of companies in the private

sector and these are enforced by fees for late filing of accounts et cetera? Why should there be a different standard of accountability when those in the private sector are penalised if they do not conform to the Companies Act and the Fees and Duties Act and yet local authorities, and one or two of those that I have listed are the fifth and sixth largest in the Island, while the majority are able to put their accounts on time? Why is there this discrimination?

Mr Corkill: Mr Speaker, I thank the hon. member for reinforcing the point within his question. It has been policy to encourage local authorities and the statutory bodies to comply. There comes a time when that encouragement has to stop and the line is drawn and then you move to the point of view of enforcement, and I think I made it clear in my original reply that enforcement is now definitely on that agenda.

Mr Cannan: One further supplementary. Can I ask the Treasury minister then, why is there at present enforcement in respect of companies in the private sector under the Fees and Duties Act 1989 and yet he is still considering whether there should be any sort of enforcement in the local authority area when it is in respect of moneys paid by the ratepayers to local authorities and yet they are still, in certain instances and in particular the Castletown, Peel, Port Erin and Port St Mary large local authorities, unable to have their accounts in accordance with legislation of this House?

Mr Corkill: There again, Mr Speaker, the hon. member alludes to unfair treatment and what I would say is that the two scenarios are slightly different in as much as I would not wish, in my position, to incur extra costs for ratepayers which would then have to be paid for out of the rates raised by each authority, but I think I have made it quite clear that enforcement is going to happen if improvements do not occur.

Ballamona Hospital – Architecturally Significant Elements – Preservation – Question by Mr Henderson

The Speaker: Item 2, hon. members, and I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

What measures has your department taken to ensure that, prior to demolition, architecturally significant elements of the Ballamona Hospital are preserved and recorded?

The Speaker: I call upon the member for Health and Social Security, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, condition 7 of schedule 2 of the Braddan (Ballamona Estate) (Planning Scheme) (No. 2) Order 1996 requires that before the existing centre block or Oak House, or either or any part of them, are demolished, the Department of Health and Social Security shall make arrangements for the buildings or buildings in question to be properly recorded.

Oak House has not been demolished and has been placed on the protected building register.

So far as the now demolished centre block is concerned, the conditions have been fully complied with. An exercise of recording the building was agreed and undertaken in conjunction

with the conservation officer of the DLGE. The exercise included a historical assessment undertaken by an historical building assessor, a comprehension of the historical floor plan where available, supplemented by the production of up-to-date floor plans following an on-site survey, the recording of the elevations of the buildings by architectural photographic techniques by off-Island and on-Island photographers.

This information is lodged with the conservation officer at the DLGE. Additionally, other items of architectural interest have been carefully salvaged and stored for further use in the new hospital. These include two panels of rare Victorian nursery tales designed by Walter Crane, best known for his illustrations of children's books in the Victorian era, sandstone shields from the tower, a Three Legs of Mann sandstone shield together with rear door sandstone arch below; plinths, coping stones, wrought iron fennels, cast-iron rainwater hoppers with dates.

Mr Henderson: Mr Speaker, a supplementary. Given the hon. member's positive response, and I thank him for some of the details supplied, is he happy with the fact that the valuable Victorian sandstone plinths that he refers to and other stone items have in fact been thrown in a compound at the new hospital site in an outdoor setting without a further thought, and is he prepared to have this unacceptable situation checked to ensure no damage has occurred to these items, many, as he says, depicting Manx symbolisms?

Mr Karran: Vainstyr Loayreyder, these plinths and that have been outside for a hundred and odd years. I do not think there is a problem with them being stored outside. They are in a secure compound as far as the items are concerned that were externally on the building and the stuff that was internally on the building is stored in the facility there, protected from the elements. So I do not think there is a problem them at the present time.

Mr Henderson: Mr Speaker, a further supplementary. Could the hon. member also explain why then a perfectly good and functional interesting Edwardian stone-built administration building had to be demolished and why the large twin Edwardian pine staircases in the same building went to the crusher and why the ornate bannister pillars of the same building ended up in the College of Further Education workshops for pupils to practice on?

Mr Karran: Vainstyr Loayreyder, if I had had my way I would have had Markwell House up there and we would have had £3 million worth of car parking space for nothing. That was eight or 10 years ago. I was one of the members in this hon. House that said it was folly to demolish the building in the first place, but, alas, that is something that one has had to inherit, that legacy. I am aware that if I had been in charge at the time the issues would have maybe been done differently, but, alas, I was not in the department at the time. But I do think it needs to be noted that some of us are as committed as far as conservation as others, but unfortunately these issues had been resolved long before I had any input.

Nurse Training – Agenda for Commencement – Question by Mr Cannan

The Speaker: Item 3, hon. members, and I call upon the hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I ask the member for Health and Social Security:

What is the reason for the delay in the Centre for Nurse Education establishing with the Isle of Man College an agenda for the commencement of nurse training in conjunction with Chester College, University of Liverpool?

The Speaker: Again I call upon the member for Health and Social Security, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I can advise the hon. member that discussions are continuing with regard to the proposed reintroduction of pre-registration of nurse training on the Island.

One option that has arisen following the meeting between my department and the Department of Education involves the validation programme of training linked into the University College, Chester. Officers from my department are hoping to meet soon with representatives from Chester College to discuss the proposals.

Following an evaluation of the available options, the department has undertaken to report back the Council of Ministers setting out the preferred course of action.

I am as anxious as the hon. member for this matter to be progressed and will be pressing for an early decision to be taken.

Mr Cannan: Is the member for Health aware that this matter was first referred to the Public Accounts Committee almost a year ago, that in June last year the Public Accounts Committee submitted its report to Tynwald, and the Council of Ministers then directed that the Minister for Health and the Minister for Education should co-operate and progress this matter as rapidly as possible and since then would the member agree that there has been a continuing case of delay and almost prevarication centring from the Centre for Nurse Education in his department, and will he further agree there is considerable frustration in not getting anything done, and will he further agree that the answer he has just given is more delay, delay and frustration and prevarication?

Mr Karran: Vainstyr Loayreyder, I find it amazing in this House how people have such short memories. One of the issues when I took the albatross of being the member for Health was that one of the conditions was non-negotiable which was the reintroduction of nurse training, and let me put on record that if they had had their way they would have made sure that the system would have been completely destroyed and totally ineffective by forcing people to have to do two years' training off this Island. How would any mature woman with children leave her children here and go off to the adjacent island?

I have to be perfectly honest with you, that I regarded the Department of Education's intervention as an excuse by the Council of Ministers not to take the decision of getting this sorted out earlier and if I had been left to get on with it, instead of people throwing all sorts of hurdles in the way, we would have had nurse training in this Island for our people before now, but, alas, I have been put through more hoops through bureaucracy as far as this issue is concerned.

Mr Henderson: Mr Speaker, I am grateful to the hon. member for the Department of Health's comprehensive answer there and backing for the initiative to be speeded up because it is not very long ago that I alluded to in this hon. House that the initiative could take as much as 10 years. Notwithstanding that, would he further not agree that it is the Department of

Health's intransigence in sticking with certain initiatives with one university rather than trying to have some sort of joint initiative which is causing the hiccup in the whole scheme of things?

Mr Karran: Vainstyr Loayreyder, I made it quite clear with our university as far as Manchester that the most important issue to the reintroduction of nurse training into this country has to be the minimisation of students having to go to the adjacent isle. That is something that had to be sorted out. I had that sorted out, I had it down to between six and eight weeks, which would have been reasonable for any married person who wanted to go in with children, who wanted to go into nurse training later on in their life in order that they could fulfil that facility. The next thing we have is we have people trying to put hurdles in the way in order that we can get on with the job.

Now, I have to be honest with you as far as the issue of the Department of Education is concerned. I understand that there are quite good logical arguments to try and have that within the college facility, especially if we are trying to upgrade our college to a university status, but it has not actually speeded up the process, it has actually slowed the process down. But I have intimated that I do want to talk to the principal of the college in the near future to make sure that everything is being done that can be done to get this issue done as speedily as possible.

Mr Cannan: Referring to the member's original answer, did he insinuate that the present delay in getting this matter progressed, following the report of the Public Accounts Committee, lay with the Council of Ministers? Was that the substance of his original answer?

Mr Brown: Your department: Education.

Mr Karran: Vainstyr Loayreyder, the delay, I believe, is that certain people within the Council of Ministers are not keen on the reintroduction -

A Member: Rubbish!

Mr Karran: - but I must say -

Mr Cannan: This is nonsense!

Mr Karran: - that the Department of Education, worrying about its empire building up at the college, is a major problem as far as it is concerned, and can I repeat that if I had had my way and been left to get on with it we would have had nurse training here, but it is like so many other issues that one tries to get going: other people's empires get affected.

Sea Terminal Passengers – Policy on Searching – Question by Mr Houghton

The Speaker: Item 4, hon. members, again I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Minister for Home Affairs:

What is your department's policy on searching passengers leaving the Island from the Sea Terminal?

The Speaker: I call upon the Minister for Home Affairs, the hon. member for Ramsey, Mr Bell.

Mr Bell: Mr Speaker, the circumstances in which passengers leaving the Island are searched is an operational matter for the police, acting under the relevant legislation, and it is not a matter on which the department has, or indeed should have, a policy.

The powers of search given to police officers or any other person authorised are governed by legislation. The main areas of such legislation, depending on the particular circumstances or the individual or vehicle concerned, are the Prevention of Terrorism Act 1990, the Misuse of Drugs Act 1976 and the more recent powers of stop and search provided under the Police Powers and Procedures Act 1998.

As with search under each of these Acts, police policy is to act on intelligence generally speaking, but that must be linked with reasonable suspicion in accordance with section 4 of the Police Powers and Procedures Act 1998, in addition to believing that the circumstances are sufficiently serious to justify the use of these exceptional powers.

In addition the Department of Transport has responsibility for security at the Sea Terminal and employs port security officers for this purpose. The foot passenger security screening area is manned by port security officers and Securicor personnel and their powers of search are covered by part II, section 11 of the Maritime Security Act 1995 and the purpose of this is to protect against acts of violence on persons and property covered in section 10. Members of the Isle of Man Constabulary are also included as those authorised to search under this Act.

It should be added that the searching of passengers for security purposes is normally done by port security officers or Securicor personnel unless it is known that the matter is specifically for the Island's police or an incident where constabulary officers are asked for a particular reason to assist.

Mr Houghton: Mr Speaker, bearing in mind what the minister said, what is the point of searching foot passengers alone but allowing vehicles through unmonitored, and also can he give an assurance that, save for random checks on vehicles, they will continue not to be put to any unnecessary inconvenience?

Mr Bell: Mr Speaker, it is the policy both of the Isle of Man Constabulary and, I believe, the port security officials that when searches take place they attempt to incur the minimum inconvenience to the travelling public. That has been the policy all along and I see no reason to change that.

The police searches which take place are generally, as I said in my answer, on the basis of intelligence received and sometimes that involves searching foot passengers, sometimes that incurs searching vehicles.

Mrs Cannell: Mr Speaker, can the hon. minister explain why then foot passengers are screened as a normal procedure when they are actually embarking upon leaving the Isle of Man, that is to say that they have to go through a screening procedure, that is, every passenger, when a vehicle does not, save for the odd random check following up a report or as part of an investigation, and does he think that this is a fair and equitable situation, that the foot passengers are being discriminated against in relation to those who have vehicles?

Mr Bell: Mr Speaker, I am absolutely sure that the hon. member for East Douglas would be the first one on her feet complaining if the police and the port authority searched every vehicle going onto the boat. It is just impractical (**Mr Houghton:** Hear, hear.) and the length of time it would take for this to be carried out thoroughly would cause massive inconvenience to

every member of the travelling public, (**Mr Houghton:** Hear, hear.) whether they be foot passengers or travelling in a vehicle.

Mr Henderson: Mr Speaker, will the hon. minister be able to comment on the release of the new drug strategy in relation to this policy and will that cause any changes for the future?

The Speaker: It is very loosely connected, sir, but, minister, if you wish.

Mr Bell: All I can say, Mr Speaker, is that included in the drug strategy is a considerable increase in resources for the drug squad. I have already increased the drug squad by 50 per cent since the budget. There are proposals to increase it again so that we will in effect double the drug squad from the size it was a few weeks ago. I would hope with these extra resources they will be more vigilant still and we will be more successful in stopping the flow of drugs coming into and out of the Island.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that even allowing for his increase in the drug squad, which I applaud, it is still too little too late and we really need to see more priorities, and would he also convey this hon. House's wishes that the department puts more priority on passengers arriving into this country than leaving this country as far as searching is concerned, because I am sure that most members in this hon. House would like to see more done as far as searching coming into this country?

Mr Bell: Mr Speaker, we have heard the old record about too little too late on drugs from the hon. member for several years. The point is we are acting on the drug question now. What has gone in the past is less important. We are developing a new strategy for tackling the drug problem. I believe, given time and collective support, it will start to bear fruit.

As far as the emphasis on searching people coming in as opposed to leaving the Island, the question was about searching people coming into the Island.

Procedural

The Speaker: Hon. members, the House clock now stands at past half-past ten and so we have run out of our allotted time. I call upon the hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker, I wish to move:

That standing order 43(2) be suspended to enable the remaining questions tabled for oral answer at this sitting to be put.

Mr Cretney: I beg to second, sir.

The Speaker: Are you agreed, hon. members?

Members: Agreed.

Police Act – Amending Legislation – Question by Mr Houghton

The Speaker: We continue then with our order paper at item 5 and I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Minister for Home Affairs:

(1) *Do you intend to introduce legislation to amend the Police Act; and*

(2) *if so, why?*

The Speaker: Again I call upon the Minister for Home Affairs, the hon. member for Ramsey, Mr Bell.

Mr Bell: Mr Speaker, my department does intend to introduce legislation to amend the Police Act of 1993. The purpose of the amending Bill will principally be to amend the provisions of the 1993 Act relating to the appointment and tenure of the Chief Constable and the functions of the department and the Chief Constable.

The amendments have been recommended by a subcommittee of the Council of Ministers which has been considering issues relating to the role and duties of the Chief Constable and the relationship between the Department of Home Affairs and the bodies that report to the department on police matters.

Mr Houghton: Mr Speaker, I welcome the hon. member's reply, but can he also confirm whether his amended Act will also include a detailed contract for future Deputy Chief Constables which will terminate their appointment if they act improperly and in particular if they conduct business in an ultra vires manner?

Mr Bell: No, it does not, Mr Speaker.

Driving without Insurance – Penalty – Convictions – Question by Mr Houghton

The Speaker: Item 6, hon. members, I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Minister for Home Affairs.

- (1) *What is the penalty for the offence of driving a motor vehicle without insurance; and*
- (2) *how many convictions were there for this offence in each of the calendar years 1994 to 1998 inclusive?*

The Speaker: Again at item 6 the Minister for Home Affairs, the hon. member Mr Bell.

Mr Bell: Mr Speaker, in answer to part (1) of the question, the maximum penalty for driving a motor vehicle while uninsured or unsecured against third party risks is a fine of £5,000 with between four and eight penalty points and an endorsement of the driver's driving licence. The court also has the discretionary power to impose a period of disqualification.

In answer to part (2) of the question, the number of persons convicted for driving or using a motor vehicle without insurance during each of the last five calendar years is as follows: 1994, 216; 1995, 263; 1996 228; 1997, 209; and 1998, 209.

Mr Houghton: I thank the hon. member for his reply, Mr Speaker, but does the minister have any initiatives to address the growing problem of people who flout the law by driving without insurance in addition, obviously, to prosecuting them when they are caught? For example, a regulation approved by Tynwald which could order the provision of an insurance disc to be placed into the inside windscreen of vehicles - would that not be an attractive idea?

Mr Bell: That might possibly be an attractive idea, Mr Speaker. It is not something my department has been considering. I have no knowledge of whether in fact the Department of Transport, who also have an interest in this matter, are considering these issues, but clearly if

any members have proposals which might alleviate the situation we would be very glad to hear them.

Mr Karran: Vainstyr Loayreyder, will the minister look back in *Hansard* and he will find that there was a Private Member's Bill several years ago, tried to be introduced by the hon. member of Middle, who is now the hon. member for Onchan?

Will he also look at what has happened in the Irish Republic as far as their idea of the possibility of having a half road tax disc and a half insurance disc and will he do that and maybe reconsider bringing in legislation, as this is a more serious offence than drink-driving in my opinion?

Mr Houghton: Hear, hear. It is. Hear, hear.

Mr Bell: Mr Speaker, two points. As I say, we have not been considering this issue. We have obviously a range of matters on our agenda at the moment which we are working through. I am not aware of the consideration which may have been given to this matter by the Department of Transport, but again I would suggest to the hon. member, if he has a proposal to this end, to raise it with either my department or indeed the Department of Transport.

I recall that the hon. member did attempt to move a Private Member's Bill some years ago, but I would just simply suggest that it is extremely unfortunate that the House of Keys has been so slow to recognise the talents of the hon. member for Onchan, (**A Member:** Hear, hear.) because after his initiatives on just about everything under the sun I do not see the purpose of (*Mr Karran interjecting*) the continuation of the Council of Ministers: he could step in and replace them.

Mr Downie: Would the minister not agree that driving without insurance and the terrible circumstances which follow should an accident occur should be high on the list of our priorities to address, and would the minister be prepared to look at a system which is in being in lots of other countries where there is this dual presentation of both the tax disc and a cover from the insurance exhibited on the windscreen, and if they are not there the police can then pull the necessary vehicle and sort out whether or not the thing has the right and title to be on the road?

The Speaker: The same question for the third time.

Mobile Phone Transmitter Aerials – Radiation Emissions – Question by Mr Singer

The Speaker: We move on to item 7 on the order paper, the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the Minister for Home Affairs:

Are you able to give an absolute assurance to residents living in the near vicinity of Manx Telecom mobile phone transmitter aerials that there is no danger to their health from radiation emissions?

The Speaker: I call upon the hon. Minister for Home Affairs, Mr Bell.

Mr Bell: Mr Speaker, neither the Department of Home Affairs nor the Communications Commission, of which I am the chairman, has any responsibility for the standards of radiation emission from Manx Telecom mobile phone transmitter aerials. The National Radiological

Protection Board sets the guidelines for the recommended limits of exposure for radio frequency radiation in the United Kingdom and Manx Telecom adheres strictly to them.

It should be noted that the power from Manx Telecom's GSM aerials is radiated in beams which are essentially horizontal so that the radio wave levels at the base of the towers will be considerably below guideline levels. Radio wave levels in regions accessible by the public will be below, and usually well below, any guideline levels.

Mr Singer: As the hon. minister cannot give, therefore, an assurance, does he not feel that perhaps the Communications Commission could make the recommendation that aerials should not be erected in such places but that any aerial which is in use should be away from residential areas?

Mr Bell: I think I made it clear in my answer, Mr Speaker, that neither the Department of Home Affairs nor the Communications Commission have powers in this particular area to comment on whether the radiation from these aerials is a danger or not. It is subject to the National Radiological Protection Board guidelines, and Manx Telecom is also subject to the issue of a frequency licence issued by the Radio Communications Agency of the United Kingdom and they have to comply strictly with these standards.

Mr Rodan: Mr Speaker, would the minister agree that if there is a suspicion that mobile phone transmitter aerials might be detrimental to health, would common sense not indicate that the more potent and certain hazard would be that arising to users of mobile telephones where a relatively powerful radio frequency field is in close proximity to the delicate structures within the skull?

Mr Bell: Yes, Mr Speaker, I would agree entirely with the hon. member and I am sure all members have read in the press and heard in the media in the last few weeks in fact of considerable concern being expressed now in the United Kingdom and indeed further afield about the dangers caused by the excessive use of mobile phones.

As one who is no lover of mobile phones I would very much like to see them removed altogether, but it is something, I suppose, we have to live with and I have no doubt at all that the debate on the safety of these phones will be under some severe scrutiny over the next few months and years ahead.

Mr Singer: Mr Speaker, as the hon. minister has expressed his opinion on mobile phones, perhaps he would like to express his opinion on the actual transmitter aerial which is giving out a continual signal, not just a signal for the time that you are using the phone, and therefore could this not then have an effect on people who are actually living within that immediate vicinity of the transmitter and therefore are subject to continual bombardment by radiation?

Mr Houghton: Hear, hear.

Mr Bell: Mr Speaker, as someone who probably lives closer to one of these aerials than anyone else on the Isle of Man I would very much like to see them removed altogether. I assume I am being bombarded by this radiation as frequently as I am being bombarded by questions in this House, but I can only repeat my answer: under the terms of the legislation as exists at the moment my department does not have control in this area, it is something which is controlled by the issue of licences from the United Kingdom.

But I would just add that if my hon. colleague is concerned about the immediate application which is in Ramsey, I understand that this has now been withdrawn and will not be pursued as far as being put on the roof of Kings Court in Ramsey, which I hope will relieve the minds of quite a number of people living in that area.

Penal Policy – Imprisonment at Weekends Only – Question by Mr Karran

The Speaker: Item 8, hon. members, and I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Home Affairs:

What additional resources would be required by the prison in order to implement a penal policy of imprisonment at weekends only?

The Speaker: Again the Minister for Home Affairs, Mr Bell, to reply.

Mr Bell: Mr Speaker, it is impossible to give a meaningful answer to this question without knowing the circumstances in which courts may be empowered to order imprisonment at weekends only. The resource implications would depend upon whether only those who currently receive a full custodial sentence would qualify for weekend imprisonment, and if so, how many and whether in addition the courts may be tempted to use weekend imprisonment for those who currently receive a suspended or non-custodial sentence. These are all unknown facts.

My department has, however, made some very rough calculations based on assumptions as to what the implications may be. In order to consider the resource implications of such a policy the following assumptions are made. First, sexual offenders, drug offenders and violent offenders would be excluded on the grounds of public protection. Second, those with previous or current histories of offending whilst on bail or breaching previous non-custodial court disposals would generally be considered unsuitable. Thirdly, unconvicted prisoners would not be remanded for weekends only. Fourth, offenders who have attracted sentences of over six months would normally not have been considered suitable candidates for weekend imprisonment.

If all these assumptions are correct the number of offenders who would be considered suitable for weekend only imprisonment would be small, as would the resource implications. The danger would come if the court looked upon weekend imprisonment as an additional custodial sentencing option and this would be used for offenders who would not otherwise have been sentenced to custody. In this scenario we would, in the existing prison at least, have to use executive release, that is, early release, for full-time prisoners in order to create the cell space at weekends.

On the basis of the above assumptions weekend imprisonment could be an option for possibly up to 20 prisoners. This would necessitate additional healthcare staff and medical officer hours to medically assess each prisoner when received at weekends and two additional reception officers to book in, search and discharge weekend prisoners. Because of the dangers of trafficking, dedicated cell spaces for weekend prisoners and dedicated recreation areas would need to be created. An increase in the budget for toiletries, prison clothes, laundry et cetera would be necessary, as each prisoner is entitled to a new kit on reception into the prison, and a restructuring of the staffing profiles to allow greater staffing at weekends

than weekdays, unless we could recruit a number of staff who are prepared to work at every weekend and take rest days during the week, or indeed are prepared to be employed part-time at weekends. Both options are likely to incur considerable additional expense.

I would stress that for reasons I have already outlined it is impossible to give a meaningful answer to this question. Obviously if weekend imprisonment was to be introduced the resource implications would have to be investigated in some detail.

I would add that my department at this time has no plans to introduce weekend imprisonment. It is something we have looked into in the past and have rejected.

Mr Karran: A supplementary, Vainstyr Loayreyder. Would the minister not agree, with his department wanting to build a prison for 136 places for a population of 71,000 when in England and Wales they have 90 for 100,000 population places, does he not feel that issues like this need to be seriously looked at if we are not to end up with something that is going to be oversized? And would he also not agree that maybe if he did listen and we had some support for a motion for a review of the penal policy, that is long overdue as far as this country is concerned, maybe we could get a sensible sized prison that would be needed for a caring and prosperous society?

Mr Bell: Mr Speaker, I can give the hon. member and certainly the hon. House the assurance that I do listen. I listen, I think, a lot more than the hon. member for Onchan does from time to time, otherwise he would not keep repeating the same question every few months.

Mr Karran: Why don't you do something about it then?

Mr Bell: Mr Speaker, my department has looked thoroughly into this. There are a number of major difficulties in operating weekend imprisonment in the present environment that we have to live with in the Victoria Road gaol, and I think the hon. member, and indeed quite rightly so, and most other members, would be outraged at the thought of me having to give early release to long-term prisoners to allow prisoners simply to be accommodated over the weekend. I find that quite unacceptable and I am sure the great majority of the Manx public would as well.

The Isle of Man Prison has to straddle five different categories of prisoner. That is why we have the problem here. In the United Kingdom they have the choice. The various different categories of prisoner are separated and put into different prisons in different parts of the country. If we were in that position, then we would not have the problem and we could perhaps have a more flexible regime. As it is we have these five categories, all in the one building, and that makes it extremely difficult to introduce the sort of flexibility that the hon. member is talking about.

I have to say that in the early days I was extremely enthusiastic about weekend prison. I thought it may have helped in a number of areas, because there are a number of countries in the world which do in fact operate weekend imprisonment. However, all the advice I have had from the professionals all round me has, at this stage, indicated that it is not a practical option.

I would also just add - again my comments seem to have fallen on deaf ears - that we are actively pursuing the introduction of tagging later on this year. That will come in as part of the Criminal Justice Bill, which I hope will be before this hon. House before the summer

recess. That will give the option of the equivalent of weekend imprisonment if we wish to pursue that. That, I think, is a far more cost-effective and telling way of reforming the penal system than some of the comments made by the hon. mover.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that this hon. member is fully supportive of the need for a new prison and the facilities, but would he agree that we need to take account of other issues as far as other ways of dealing with crime and penalties within our society and before any new prison is designed, these issues are taken into account in the design, and would he not agree that once again the bottom line as far as this is concerned is we are building a prison for 136 places for a population of 71,000? In England and Wales they build 90 places for 100,000. Surely our maths are wrong and surely our penal policy is wrong, if that is the case, that we need a hundred per cent more places in our country than in the adjacent isle.

The Speaker: Minister, if you wish to add to your answer.

Mr Bell: I think it is almost a waste of time trying to add to it, Mr Speaker. I have tried to make it clear to the hon. member what the problems are. Clearly he is not understanding what I am saying.

Mr Karran: I am.

Mr Bell: I have said on a number of occasions that my department is actively reviewing the penal system and we are looking for alternatives to imprisonment. The hon. member for Onchan frequently comes up with these wide-ranging, sweeping statements about a reform of the penal system without any indication whatsoever as to what area he is talking about or any alternatives which he himself would like us to look at. If he had some specific points to raise I think it would be far more constructive than making this one sweeping damnation of everything we are trying to do.

I would also remind the hon. member, and again I have said it on a number of occasions, that the capacity of the new prison is being geared for the next 20 or 30 years. It is not what will be available tomorrow and it may well be that once the prison is finally decided upon and its design agreed, this development could be phased over those number of years, but we need the volume of space within the prison to enable any future expansion which may be required due to increased demand to take place. We are seeing the 136 figure which we are talking about at the moment as being the optimum figure for some 20-odd years down the road. I would hate to be the architect of a new prison which within 10 years left us in the same situation as we are at the moment where we have a prison which is far too small for the Isle of Man and no room to expand it on.

The Speaker: Hon. members, we are not going to allow this question to develop into a prison debate, but nevertheless the hon. member for Onchan has indicated that he wishes to ask a supplementary. If it is specific, sir, it will be the final supplementary.

Mr Karran: Vainstyr Loayreyder, then will the minister in reply to the last question tell us is it government policy to have a population of over 150,000, because that is the sort of numbers that we are building for if we are having the same prison population as England and Wales, and will he also not consider that we should support a motion for a review of the penal policy in order to make sure we get the right sort of prison for this country?

The Speaker: The answer to the first part of that supplementary, sir.

Mr Bell: Really I have nothing more to add, Mr Speaker. If the hon. member has specific problems with our policies on penal reform I would like some specific indications from his as to what he wants to look at. No matter how many times I have told him, clearly the penny has not dropped, that we are doing our best to try and find a more effective and modern approach to the development of penal policy, but if there are areas that the hon. member thinks we are not looking at I would be very glad to hear it.

Hackney Licensing System – Question by Mrs Cannell

The Speaker: Item 9, hon. members, and I call upon the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

Is it your intention to introduce an all-Island hackney licensing system?

The Speaker: I call upon the Minister for Transport, the hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker. My department is presently giving consideration to an all-Island licensing system for hackney vehicles, their drivers and operators. Following the discussions by the department's hackney working party, which have now concluded, it is my department's intention to fully consult with the public by the publication of a consultative form of white paper.

I hope to make the white paper available before the end of April this year and my department very much look forward to receiving views from the public, including hon. members of Tynwald, on this very important matter which relates to the provision of taxi services throughout the Island. Thank you.

Mrs Cannell: Mr Speaker, I thank the minister for his reply, but bearing in mind that the Bill has already been out to public consultation during 1996-97 why is the minister seeking to undertake this exercise again, and as he referred to the working party which was considering the all-Island hackney licensing situation, why, when the working party was informed in August or September last year that a proposed Bill then at green stage was to be considered by the Council of Ministers, then is the reason for this latest delay?

Mr Brown: Mr Speaker, I am not sure where the hon. member gets her information, but I think she should check it.

TT Party – Venue – Question by Mrs Cannell

The Speaker: Item 10, hon. members, and I call upon the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

- (1) *Was your department consulted prior to the announcement on the venue by the Minister for Tourism and Leisure for this year's TT party; and*
- (2) *what is the opinion*
 - (a) *of your department; and*

(b) in particular of the harbours division of the feasibility and desirability of the proposal?

The Speaker: Again I call upon the Minister for Transport, the hon. member for Castletown, Mr Brown.

Mr Brown: Mr Speaker, the answer to part (1) of the question is, yes, my department was consulted by the Department of Tourism and Leisure prior to the announcement.

In answer to part (2), the opinion of my department is that the proposed street party is feasible. However, the desirability is a matter for the Department of Tourism and Leisure.

Mrs Cannell: Mr Speaker, can I ask the minister, did the harbours division have a particular concern in relation to any safety/health matter regarding the use of the North Quay, and if so, what exactly were their concerns and have the Department of Tourism satisfied those concerns?

Mr Brown: Mr Speaker, the harbours division is part of my department and is not a stand-alone unit. However, the division did make a comment to the Department of Tourism and Leisure relating to concerns over safety to the public with regard to using the North Quay, and the Department of Tourism and Leisure agreed to undertake a risk assessment and that matter, as I understand it, is still awaited. Certainly public safety is a matter my department would take very seriously, as I know the Department of Tourism and Leisure will.

Mr Cannell: Mr Speaker, may I ask a supplementary question, please? Would the hon. Minister for Transport not agree with me that Tynwald has appointed the Department of Tourism and Leisure to promote the TT races and that they should not only be allowed to get on with it but be applauded for their many initiatives, which have kept this event at the forefront of motor sport?

Mrs Crowe: Hear, hear.

Mr Brown: Mr Speaker, as a great supporter of the TT races myself I endorse that comment.

Mrs Cannell: Mr Speaker, the minister in my first question made reference to a risk assessment. I understood that he said that the risk assessment is awaited or that the concerns in relation to the harbours division in respect of the use of the North Quay have not been covered in the risk assessment. Could he clarify the position, please?

Mr Brown: Mr Speaker, officers of my department and departments of government have a responsibility to safeguard the public, and my department will work very closely with the Department of Tourism and Leisure on this issue and public safety is paramount in all our minds. The risk assessment is a matter that has been agreed between the two parties to be undertaken.

The Speaker: A final supplementary, the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. In relation to the functions undertaken by the hon. minister's department, more specifically highways, can the hon. minister advise whether or not his department will be approached by the Department of Tourism for a request for a road closure order and if that is the case, following the advertisement of such a road closure order, if members of the public who feel they may be affected by such a closure submit to the

department their objections, what will the view be of the department then? Will they have to consider refusing the road closure order?

Mr Brown: Mr Speaker, just because people object to something does not mean it is automatically refused. Certainly any views that are received are taken into account by the department, whatever the road closure is. I would also make the point that this road closure is somewhat different, as this is a harbour road and therefore falls under different legislation relating to the closure of a road and would be dealt with differently.

However, what I can say is that I would take on board, and my department would, any views that are put forward by the public. They would be considered, the merits of the event would be considered and a decision would be made. I understood that the members for Douglas, but it seems like one is not, were supportive of endeavouring to make this event successful, after their meeting last week.

Bus Drivers – Passenger Safety – Question by Mr Singer

The Speaker: Item 11, hon. members, and I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the Minister for Tourism and Leisure.

- (1) *What responsibility has a bus driver to ensure that all passengers are seated before the bus moves off from a bus stop; and*
- (2) *how many complaints and reported injuries have you received of passengers falling because the bus has started moving from the bus stop before the passenger has been seated?*

The Speaker: The Minister for Tourism and Leisure, the hon. member for Douglas South, Mr Cretney, to reply.

Mr Cretney: Thank you, Mr Speaker. Bus drivers have full responsibility for the safe carriage of their passengers at all times.

In answer to part (2), the public transport division of my department have received three complaints in the last year from passengers who received injuries on board the bus whilst the bus was leaving a bus stop.

Mr Singer: I thank the hon. minister for his reply. Can I ask the hon. minister what check is made to ensure the safety, particularly of senior citizens, to ensure they do not fall due to drivers moving off? Is the driver given a specific instruction to ensure that the bus does not move before the passengers, particularly senior citizens and children, are seated.

Mr Cretney: Obviously as a matter of working practice this is something that the drivers will take into account. We are trying to formalise that in terms of the new draft staff handbook in terms of a section of advice which the drivers will adhere to in the future and 'what standard of driving is expected of me' and the handbook indicates 'Where possible try to ensure that a passenger is able to sit down before you move away from a bus stop.'

UK Anti-Rabies Controls – Relaxation – Question by Mr Downie

The Speaker: Item 12, hon. members, and I call upon the hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker. I beg leave to ask the Minister for Agriculture, Fisheries and Forestry:

What would be the implications for the Isle of Man were anti-rabies controls on animals entering the United Kingdom to be relaxed?

The Speaker: I call upon the Minister for Agriculture, Fisheries and Forestry, the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Because of pressure from pet owners distressed by existing requirements the UK authorities commissioned the Kennedy report on the subject of rabies control. The report recommended that the current system of strict quarantine could be partially replaced with a system based on passports and vaccination without increasing the risk of rabies entering the British Isles.

The United Kingdom accepted some of the recommendations and hopes to implement them as soon as possible, aiming to have the new scheme fully operational in two years' time.

The Government of Ireland is adopting similar measures and working to the same timetable.

Current Manx control legislation is in the form of the Importation of Carriers of Rabies Order 1977 which only permits importation of dogs and cats from the adjacent islands. Importations from abroad must first satisfy the current UK and all Irish protocols. That situation will still pertain.

However, my department is concerned to learn that the United Kingdom Government intends to have the checks and policing carried out by ferry and airline staffs. This is at odds with Kennedy's recommendations that implementation be in the control of ministry inspectors at the ports of entry, that is, MAFF - Ministry of Agriculture, Fisheries and Food - officers.

If Kennedy was to be implemented in full then my department believes that there would be no implications for the Isle of Man, as the risk factor would not change. Any weakening of the proposed control is worrying and my department is actively considering the options available to it. Thank you, Vainstyr Loayreyder.

Mr Downie: Mr Speaker, I would like to thank the minister for her comprehensive reply. I would like to ask her does the present United Kingdom Rabies (Importation of Dogs, Cats and other Mammals) Order of 1974 apply to the Isle of Man and will the Isle of Man require separate or new legislation to enable Manx residents to travel with their pets in the European Community and other participating countries?

Mrs Hannan: Vainstyr Loayreyder, we work extremely closely with our neighbours, that is, the United Kingdom and Ireland authorities. We meet on a yearly basis to discuss rabies. It always has been one of the diseases which has been uppermost in our mind with regard to the controls that are laid down and the effect that it would have should it be introduced into the British Islands as a whole.

The legislation at the moment is covered by the Importation of Carriers of Rabies Order 1977. This is an order under our legislation. We have legislation recently introduced, animal

health, and I would anticipate that any change in legislation would be introduced through that. If not, then primary legislation would require to be introduced.

But my department still remains dissatisfied with the way that the Kennedy report has not been operated in full and that the inspections will be carried out by sea and air officers as opposed to officers of MAFF.

There are a number of countries where quarantine restrictions will still pertain and these are the Americas, Africa, Asia and any country not listed under the European Union or EFTA, or rabies-free islands. This also includes Eastern Europe and Russia. There are a number of qualifying countries in Europe where pet movements under Kennedy can be implemented and there are also rabies-free islands, a number of islands throughout the world that do not have rabies, and they can also be treated under the Kennedy protocol.

Mr Downie: I would like to ask the minister if she is in a position yet to advise the House as to who would oversee the registration, electronically microchipping and the issuing of animal passports in the Isle of Man, and are we likely to have a system of veterinary or port inspectors, as envisaged in the United Kingdom, in place here in the Isle of Man?

Mrs Hannan: It would be my department's responsibility. As it is now, we take an active interest in rabies.

The decision to have someone at ports has not been taken. That decision would have to be taken later, but it would be costly and it is possible that it would be unnecessary.

It has been calculated that under the current quarantine system there is one case every 36 years and that age range is between 21 and 87 years. Under this proposed system it is suggested that there would be one case every 34 years and the age range would be 19 to 71 years. There is a statistical difference but it is very little.

Mr Karran: Is the minister aware that rabies was in some European capitals for 18 months before anybody realised that that was the case? Does the minister not feel that we should be maybe bringing in the same restrictions that are being put between the UK and Europe between the Isle of Man and the UK, that we want some sort of passport for pets coming to the Island because of the fact that it is very difficult to prove that there could be rabies in the UK for months before anybody realises that that is the case?

Mrs Hannan: We do intend to carry out random checks on foreign visitors seen to have pets, Vainstyr Loayreyder, but complete checking would be impossible, as my department officers would have no way of knowing whether Manx residents had come from Manchester or Marrakesh. This problem could only be solved by extending the passport conditions to all dog and cat journeys and we think that this may be unacceptable (**Mr Gilbey:** Hear, hear.) to pet owners. Thank you.

Mr Downie: Mr Speaker, I would like to ask the minister if she is in a position to explain, and this was discussed in the House of Commons last week, why it is thought that the anti-rabies controls have to be maintained in Northern Ireland and residents there would not be able to have pet passports? And could the minister advise the House what is the present situation when a person travels with a pet from the Isle of Man to Northern Ireland or vice versa?

Mrs Hannan: I am not sure why Northern Ireland should be highlighted as somewhere that should be treated differently. At the moment there is free movement between the island of Ireland, the island of Mann and England, Scotland and Wales. There are no restrictions from animals within that area and also I think the Channel Islands are involved in that. We work very closely with the United Kingdom, with Eire authorities and with the Channel Island authorities and this is when I said in my response to the question initially that it is the entering the British Isles. We work very closely.

The Government of Ireland is adopting similar measures but we also feel that they will be concerned that the controls and the inspections at ports are being carried out by ferry and airline staff, not by MAFF inspectors who carry the full rigour of the law to inspect anyone coming through ports and airports.

The Speaker: Hon. members, items 13, 14, 15 and 16 are down for written answer and I understand the answers have been circulated on hon. members' desks.

Legal Aid – Advocates’ Remuneration – Question by Mrs Cannell for Written Answer
Question 13

The hon. member for Douglas East, Mrs Cannell, to ask the Minister for the Treasury:

What is the hourly remuneration paid to advocates undertaking work which is supported by

- (1) *civil legal aid; and*
- (2) *criminal legal aid?*

Answer

(1) Civil legal aid work is presently remunerated in accordance with the advocates scale of fees, which is a scale providing different fees for different types of work.

For example, the fee for -

- writing a letter is £6.46
- drafting pleadings is £10.32 (per folio of 80 words)
- conferences) is £38.70 per hour or part of an hour
- preparation)
- court appearances)

However, an advocate may opt to be paid for civil legal aid work on the time basis of remuneration for criminal legal aid. This is a concession by the Treasury.

(2) Criminal legal aid work is remunerated under an order made by the Treasury on 14th September 1998 and approved by Tynwald on 21st November 1998, as follows:

(Hourly rates)	Preparation	Travelling	Appearance
	Time	and Waiting	Time
	£	£	£
summary proceedings	53.00	31.00	67.50
trial proceedings (a)	62.00	31.00	77.00

appeal proceedings (b) 53.00 31.00 67.50

These rates applied from 1st November 1998.

(a) senior advocate

(b) junior advocate

Land Registry – Legal Officer – Question by Mr Houghton for Written Answer

Question 14

The hon. member for Douglas North, Mr Houghton, to ask the Minister for the Treasury:

- (1) *When was the post of legal officer in the land registry established;*
- (2) *what objectives are contained in the job description of the post; and*
- (3) *to what extent have they been achieved?*

Answer

(1) The Land Registration Act 1982 provided for a land registry which would be under the control and management of a land registrar, who had to be an advocate. An appointment was made in 1991.

The Land Registration (Amendment) Act 1995 amended these provisions by making the land registry a part of the General Registry and a responsibility of the Chief Registrar. The Amendment Act also removed the reference to 'the Land Registrar' and instead imposed an obligation on the Civil Service Commission and the Chief Registrar to appoint one or more legally qualified persons to the land registry. From the passing of the 1995 Act, the title of this post was changed to that of legal officer.

It is from this amendment that the post of legal officer in the land registry has been established.

(2) and (3) The original objectives of the present post holder, and the extent to which they have been achieved, are as follows:

- 1 advising HM Attorney-General with regard to further amendments to the Land Registration Act 1982 in the light of amendments to the Northern Ireland legislation on which the Act is based
- 2 drafting the land registry rules and forms for the new system
- 3 determining the appropriate administrative procedures for the land registry and identifying staffing requirements
- 4 ensuring co-ordination with the registry of deeds
- 5 determining the appropriate computer hardware and software requirements for the land registry, in consultation with the Department of Local Government and the Environment and the information systems division of the Treasury
- 6 training the land registry staff
- 7 providing training courses for advocates and their conveyancing staff in the new system

- 8 registering all government-owned property under the new system
- 9 supervision of the operation of the land registry once it is fully established

The foregoing job activities have been completed to the following extent:

- 1 This has been done.
- 2 These are prepared in draft form.
- 3 This has been done.
- 4 This is ongoing.
- 5 This has been done.
- 6 This is an ongoing process.
- 7 This will be done when the system is finally delivered and tested.
- 8 This will commence when the system is fully tested and accepted. This is expected to be towards the end of April this year.
- 9 This will occur when the land registry is operating.

The objectives of the post holder have evolved and are now as indicated in the attached job description.

Job Description

Post: Legal Officer (Land Registration)

Division: Registries

Department: General Registry

Responsible to: Chief Registrar

Introduction

The Isle of Man Government is committed to introducing land registration to replace the existing system of registration of deeds in order to provide a more efficient and cost-effective service. The new computer system known as CLARE (Computerised LAnd REGistry) is currently being developed.

Job Purpose

Following the decision of Council of Ministers in May 1995 to endorse the proposed Land Registry computerisation strategy and to authorise the commencement of land registration implementation, and in the light of amendments to the Land Registration Act 1982, the legal officer (land registration) will be required to advise and assist with the implementation of land registration as required and directed by the Chief Registrar, and in due course to undertake the legal functions of the Chief Registrar provided for in the land registration legislation.

Main Duties

1. to fulfil designated legal functions of the Chief Registrar provided for in the land registration legislation as permitted by section 21 of the Interpretation Act 1976 as amended

2. to advise HM Attorney-General with regard to the drafting of the secondary legislation (rules), including forms
3. to determine the appropriate administrative procedures for the land registry and identify staffing requirements
4. to assist with the appointment of personnel to staff the Land Registry
5. to recommend the appropriate computer hardware and software requirements for the land registry.
6. to negotiate and draft IT and other supply contracts as required
7. to oversee the procurement, testing and acceptance of computer hardware and software
8. to assist with the selection and appointment of consultants, if required.
9. to chair the CLARE steering group meetings
10. to provide training for land registry personnel
11. to provide training for advocates, conveyancing clerks and all other users of the system
12. to advise the Chief Registrar on the expenditure of the land registry's vote(s)
13. to advise the Chief Registrar and the land registry personnel on all aspects of land law and conveyancing and land registration law and practise
14. to commence the registration of land

Police Officers – Early Retirement – Question by Mr Karran for Written Answer

Question 15

The hon. member for Onchan, Mr Karran, to ask the Minister for Home Affairs:

- (1) *How many members of the Isle of Man Constabulary have taken early retirement in each of the years 1994 to 1998 inclusive; and*
- (2) *(a) after what length of service, and (b) at what rank did they take early retirement?*

Answer

Police officers can retire on full pension after completing 30 years' service which, if they joined the force at the minimum joining age, can be once they have attained the age of 49 years. They can also retire on a lesser pension after 25 years but less than 30 years service, although most remain in post until they have completed 30 years as, if they retire before that point, their pension is not index-linked until they reach the age of 55 years. They can, however, if they wish, continue to serve beyond the 30 years point until they reach the maximum retirement age of 55 years in the case of a constable or sergeant, 60 years in the case of an inspector, chief inspector or superintendent and 65 years in the case of the chief constable. The only circumstances, therefore, in which police officers would take early retirement is on medical grounds.

Details of early retirements on medical grounds during the period 1994 to 1998 (inclusive) are as follows:

1994

Four officers retired, namely one sergeant with 22 years' service and three constables with 13, 20 and 20 years' service respectively.

1995

There were no retirements on medical grounds.

1996

Six officers retired, namely one inspector with 21 years' service, two sergeants both with 22 years' service and three constables with 17, 20 and 22 years' service respectively.

1997

Three officers retired, all constables, with 10, 20 and 22 years' service respectively.

1998

Four officers retired, namely one inspector with 23 years' service, two sergeants with 23 and 24 years' service respectively and one constable with 10 years' service.

Length of service refers to length of service in the Isle of Man Constabulary. Some of the officers referred to had previous service in a UK police force.

Noble's Hospital – Oxygen – Question by Mr Braidwood for Written Answer

Question 16

The hon. member for Douglas East, Mr Braidwood, to ask the member for Health and Social Security:

- (1) *What was the annual amount of oxygen*
 - (a) *made and*
 - (b) *used**at Noble's Hospital in each of the years 1996 to 1998 inclusive; and*
- (2) *what is the cost of producing the amount made inclusive of any equipment rental charges?*

Answer

(1) Noble's Hospital information systems only record details of the oxygen produced by way of the hospital's pressure swing absorption (PSA) plant. The plant produces low-pressure medical-grade oxygen on demand, which is piped directly into the hospital. Details of the bottled oxygen purchased by the hospital from British Oxygen for use by Noble's Hospital are not available as the hospital purchases not only bottled oxygen but also a number of other medical gases, which are used both in the hospitals and in the community. It has not been possible to extract the information required in the time available.

- (a) The amount of oxygen produced by the PSA plant has remained consistent throughout the period 1996 to 1998, at an average of four cubic meters per hour throughout the day, seven days per week. This equates to 245,280 cubic metres of oxygen for each of the years in question.

(b) In view of the fact that the oxygen is made on demand, the same quantity is used.

(2) The cost of producing the oxygen has also remained consistent at an average of £58,000 per year during 1996 to 1998. This cost includes such elements as rental charges, call-outs for breakdown and electricity.

Late Payment of Commercial Debts (Interest) Bill – Leave Given to Introduce

The Speaker: We turn therefore to item 17 on the order paper and I call upon the hon. member for Onchan, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. Hon. members, today's motion seeks leave to introduce a private member's Bill to tackle problems caused by the late payment of commercial debts. It is a proposed measure modelled on similar legislation passed by the United Kingdom Government last year and to be expanded upon next year. Its primary purpose can be summed up as offering the chance of relief to small businesses that suffer from the policy of some larger organisations to pay invoices as late as possible.

The late payment of commercial debt is acknowledged by many in the business community to be a serious problem, especially for small businesses least able to bear the additional costs arising from payment delay. In addition recovering debts can impose further expense in terms of diverted resources and actual costs, especially where recourse to the courts is required.

Small businesses play a fundamental part in the economy of the Isle of Man and I am concerned, therefore, by any actions which unnecessarily hinder their competitiveness.

The proposed Bill would encourage prompt payment of debt by imposing in certain circumstances a right to charge statutory interest. A small business would be able to charge a large business or a public sector body statutory interest on the late payment of debts due under contracts for goods and services supplied in the course of a business.

Small businesses would originally be defined as being those with an average of 50 or fewer employees during the previous financial year. The public sector would include government departments, local and public authorities.

The statutory interest rate would initially be 8 per cent over the Bank of England official dealing rate on the day the right to charge interest arose, though that rate would be subject to negotiation when the Bill is being framed.

The right to charge interest on late payments would begin from either the time that the payment was due under the contract or, where the contract did not specify a payment date, 30 days from actual delivery of the goods or services.

The supplier would not be obliged to charge the statutory interest, and I stress that, the supplier would not be obliged to charge the statutory interest but if he wished to do so he would have to inform the customer of his intention, preferably in writing.

If passed, the subsequent Act would not apply if the parties agreed other contractual remedies for the late payments, provided those remedies were deemed as being substantial. The courts would decide in due course what was meant by 'substantial' on the basis of whether the remedy was adequate compensation for the late payment and whether it was fair and reasonable in all the circumstances.

After an introductory period the proposed legislation would be expanded to cover small businesses being able to claim statutory interest from other small businesses, and it would finally be expanded to cover all businesses and the public sector having the right to claim interest on trade debt from all other businesses and the public sector, in other words universal.

So what is the current position in the Isle of Man? When the High Court grants judgment it has power under section 41 of the High Court Act 1991 to grant interest at such rate as the court thinks fit for all or any part of the period between the date when the cause of action arose and the date of judgment but it is entirely at the discretion of the court.

After judgment an execution is granted, the execution automatically carries interest under section 9 of the Administration of Justice Act 1981 from the date when the execution is granted, at the rate fixed from time to time by the deemsters. The coroner collects this when he enforces an execution.

There is therefore no automatic right to interest on late payment until execution is granted by a court. It depends on the court's discretion, as I have remarked, or provision for late interest payments being made within the original contract. In that case the contractual interest can be claimed and, subject to particulars and evidence, courts would normally include it in the judgment. Sometimes invoices say that interest will be charged on late payment, but this is not legally enforceable unless it was agreed at the time the contract was entered into.

The position in England is at the moment that under the Late Payment of Commercial Debts (Interest) Act, which I referred to, passed last year, there is a statutory right for businesses to interest on late payment of certain debts arising under commercial contracts for the supply of goods and services.

Late payment of commercial debt is a continuing problem for businesses in the United Kingdom and the Isle of Man. Late payment has recently been shown in some surveys to represent a problem for as much as 45 per cent of small and medium-size enterprises. New surveys of average payment periods are regularly published by various organisations and although data collection methods vary across surveys, the general picture is that slow payment and bad debts are having a major impact on business.

As the Isle of Man has thriving links with United Kingdom registered limited companies, as well as those who have chosen to establish direct local bases here, it has become worrying that there is an increasing tendency to settle bills well outside the usual 30-day periods.

I would hope it would be possible to establish full reciprocation of implementation between the two jurisdictions.

There is some concern that a legally enforceable right to interest might be seen as an additional burden which would be difficult to pursue in practice and which might become damaging to established customer relations. It has also been said that a statutory right to interest would encourage firms to use late payment as a legitimate line of credit but really there is no defence to small firms and even one-man businesses being held to ransom for payment by the big boys. We have even heard of at least one unscrupulous property developer in the Island attempting to deliberately cut his costs by not only regularly paying late but also reducing the payment, based on the knowledge that the supplier of goods and/or

trade services needed the cash to keep going, having already presumably paid up front for the materials and carried the labour cost at his own expense through the bank.

Central and local government might also be shown as amongst the poorer payers of commercial debt - might also be shown - and I would consider incorporating into the Bill a requirement that Manx Government departments and local authorities might be required to publish their payment performance records.

So, Mr Speaker and hon. members, I hope you will agree that there is sufficient call for such legislation to be contemplated in this regard. I assure the House of my commitment to consult all relevant parties when framing the Bill.

Mr Karran: I beg to second and reserve my remarks.

Mr Corkill: Mr Speaker, I certainly would like to welcome the hon. member's interest in this issue and certainly at first glance it should put pressures on the larger economic entities to deal fairly with smaller business. However, being a sceptic by nature, I do feel that, big business being what it is, the Bill will have to be very tightly drafted, otherwise with creative paperwork and variable practice large business will get around the rules and possibly then leave small businesses saddled with the burden of the new legislation. I can actually foresee some very creative contracts being produced by large companies, smaller concerns not being able to keep pace and then the larger concerns continuing to dictate trading terms but on a contractual basis.

But without doubt there are companies and individuals, and the hon. mover has mentioned this, who deliberately set out to pay late or even not at all, and this practice should be condemned in any fair society such as ours.

I would also wish to say that in my opinion this Bill is bound to have some maybe limited financial implications for government and under section 10 of the Treasury Act it states there that Treasury concurrence is required for such Bills.

Now, it is government's policy, obviously, to pay creditors promptly and there should only be a few occasions when interest might add up on such outstanding amounts, but even a few in number may well have just a few financial implications. So I just point that out to the hon. members of the House.

It is my hope that the hon. mover, in preparing this Bill, has it tightly drafted in order to target the problem. Well, what I am saying is Treasury is there to help, as ever, and we would certainly like to play a part in the process of consultation which the hon. mover has proposed, and therefore I would like to support the leave to introduce.

The Speaker: Hon. members, the Treasury minister has indicated that in fact the prior concurrence of the Treasury was required for this particular measure before it appeared on the order paper. I want to make it quite plain that in my opinion the item is on the order paper perfectly properly. The Treasury Act of 1985, as the hon. minister has indicated, section 10, requires the prior concurrence of Treasury to leave being given to introduce a Bill in the Keys for three specified and specific circumstances: to authorise expenditure of public moneys; or to increase any expenditure sought to be authorised by a resolution or a Bill; or to reduce the income of the government. In my opinion in relation to this particular measure none of those factors has a bearing on this particular Bill unless in fact government itself became a late

payer and therefore became required to pay late money, interest, and therefore it is a default of government and in my opinion the Bill or the leave to introduce is perfectly in order on the order paper. I want to make that quite plain, hon. members. The hon. member for Ramsey.

Mr Singer: Thank you, Mr Speaker. I would like to support the leave to introduce this Bill by the hon. Mr Cannell and in doing so can I put two questions to him which he may want to look at and come back with an answer some time, not necessarily today.

Can he tell me whether this Bill would cover legally Manx-based companies who have debts with other companies off-Island, whether that would be legally enforceable through our courts, those debts?

Secondly will this Bill in any way cover consumers when they are owed debts or credits by a company or government?

Mr Cretney: Just a quick question if I can, please, sir. Again I am broadly in support of the measure. I just wondered where the figure 8 per cent came from. Is that in the equivalent United Kingdom legislation or is that something which the hon. member has thought appropriate for ours?

Mr Quine: Mr Speaker, I have no difficulty with the principles or the objectives. I think this Bill should be welcomed. The one concern I have, if I have picked up correctly what the hon. member for Onchan has said, is of course that this legislation in the UK has only been in place a very short period of time, it was last year I think the hon. member said, and I am a little concerned that we may be running too early with this type of legislation in the sense that we will not have had the opportunity to learn from the experiences of running with this type of legislation in the United Kingdom.

A number of members have referred to problems in trying to enforce this type of legislation and I think if you just sit and jot them down on a piece of paper there is a long list of potential problems, and I have no doubt we will be having a closer look at these when - well, I hope - the Bill is before us.

But I would just raise this question about timing because if this is new legislation in the UK, unless there is another parallel that he can draw on for experience, then I would be concerned that perhaps we are jumping in a bit too quick with primary legislation and it may be prudent for us to wait a little longer, but I am perfectly happy to support this move and I am perfectly happy to see what information is put before us when we get to the next stage.

Mr Houghton: Mr Speaker, I also rise to support the hon. member in the bringing forward of this Bill. There have been some very interesting points made already.

What I would like to say, looking on the downside of this, though, is if it is implemented in the way that we see it, well we perceive it at this time, I do still see that the problem that the big boys, the big companies, if the smaller customer puts pressure through the hon. member's proposed legislation on the big boys they will just simply go elsewhere with their trade. That is the problem. That is the ultimate problem here.

I know a newsagent, a colleague newsagent of mine not a million miles away from the doors of this hon. House, who is currently owed over £2,500 in debts from a number of larger businesses, supplier businesses, and that person, that newsagent, cannot go banging on the door, could not use this legislation unless the hon. member comes up with an idea - and I do

offer my help with that, with the consultative process - simply because they will pay up and go to the next mug down the road. That is their attitude and that really is the principal reason, I know, why the hon. member is bringing this Bill, and, as I say, I congratulate him for that.

But I just see problems in the aggrieved person actually bringing forward a complaint to whoever, say the Treasury or whoever, bringing forward a prosecution for this.

But apart from that it must be looked into, and as I say, I would like to offer my help and support in his consultative process. Thank you, Mr Speaker.

Mr Downie: I rise in support of the introduction of this private member's Bill. I was recently involved in a select committee which looked into the construction industry and when you actually saw first-hand the amount of time that people were taking to pay accounts - two, three years in some cases - and these were not people who were involved in disputes, this was because we were in a situation where they were wrapping up a long-term contract, there was some money held for attention, and one individual out of about 20 different contractors had not performed satisfactorily and everybody else had been caught in this, and in my opinion this situation is having an adverse effect on the construction industry in the Isle of Man and I think that if there is a mechanism where somebody can come forward and use the courts to ensure that there is prompt payment I think it is something that is worthy of investigation.

I will be interested to see what the mover comes up with, but I think he should also add within his Bill somewhere a provision to indicate that persons are in a dispute or there is in fact an area where there could be arbitration involved and that is an area which I think could lead to some problems with this, but by and large I think it is long overdue and we should get back to the old days where you hired a person and you paid him within the appropriate time, provided you were satisfied, and people could not run for months and months and years holding on to money.

Just on one point - from time to time we do get complaints about income tax and when people have overpaid their income tax they receive a communication saying, 'Well, it's such a little amount we'll not pay you out, we'll knock it off next year's bill.' I think that should be looked at as well, and also we get regular criticism from constituents who say that of all the offenders some government departments take longer to pay out than anybody else.

So I think it will smarten everybody up in the Island. I am supporting the Bill and I look forward to seeing it come before us for its first reading. Thank you, Mr Speaker.

Mr Karran: Vainstyr Loayreyder, I support this Bill because I believe that it is not the answer, the total answer, it is a matter of a package of measures. I believe that we have done a number of things over recent years such as increase the amounts in the small claims court, which was an excellent move as far as trying to help people to concentrate the minds of those in small businesses that were not paying up to the others, so that consequently they did not end up being forced with massive legal bills.

I think Mr Quine, the hon. member for Ayre, is wrong to use any excuse that it has not been worked out in the UK. I do feel that we should go ahead with this proposal even though it has not been seen to work in the adjacent island. I think it is wrong to use that as an excuse.

But at the end of the day I believe that this private member's Bill is part of a package of measures which will solve this problem which is costing a lot of smaller businesses dearly.

There are issues that we could do as a government as far as the issue that is in front of us today and that is maybe make sure that in all government contracts there is a penalty in there that anybody that does the work for government has to then pay promptly those who do the work on a subcontract basis, and I do think that is something that needs to be addressed.

I do hope that we are not having that problem with the new hospital because the contract is being made so that there should be prompt payments for subcontractors at the new hospital, and if that is a problem, and I highlight that within this Bill, I hope that hon. members will make their cases known to the department as far as that is concerned.

But I support the principle of this Bill. I think that it would be wrong for us not to give leave to introduce. I do not see it as the panacea that will end all the problems, but it will help the weak within our society against the strong who do abuse the situation where we do have wealthy individuals on this Island that say, 'We won't agree to the price: see you in court', who are quite despicable, and I do hope that this Bill will try and put some sort of control on those sorts of individuals as far as larger amounts are concerned, but the small claims court is there for smaller amounts, and I do think this is one of a package of measures that is long overdue in my opinion.

Mrs Cannell: Mr Speaker, I rise in support of any member being asked for permission for leave to introduce a private member's Bill as the right of any member in this House, but I would ask the hon. member, when he is putting pen to paper and meeting with the legislative draftsman, to bear in mind that the Department of Trade and Industry has a working party set up at the moment that is looking at the construction Act, part of which deals with arbitration. This is in relation to there being a dispute between a contractor and a client or a contractor and a subcontractor in relation to late payment or possibly alleged faulty or unsatisfactory workmanship.

The provision within the construction Act is a good one in relation to arbitration because it demands that the dispute between the parties be settled within a very short time, whereas at the moment of course, especially in relation to the new hospital if there is a dispute under the present proposals governing the new hospital scheme, a contractor or subcontractor has to wait until the end of the project. That could be five or six years down the road before the dispute for non-payment or alleged faulty works is actually settled -

Mr Karran: Not true.

Mrs Cannell: - and it is true, I would say to the hon. member for Onchan, Mr Speaker, as the department has been through the Bovis contract in relation to the hospital with a very, very fine-tooth comb -

Mr Karran: Absolute rubbish.

Mrs Cannell: - and if the hon. member would care to spend time reading the small print in relation to this he too would agree with me -

Mr Karran: Come and have a meeting.

Mrs Cannell: - that the present situation is not a very healthy one. (*Interjections*) However, the working party is made up of the membership at officer level of the Department of Trade and Industry and Treasury, including the capital projects supervisor. How long they will deliberate for, when they will actually come forward with a modified version of the construction

Act for the Isle of Man situation remains to be seen, and so I would just ask the hon. member to be mindful that that particular provision is being looked at. It might be helpful to him, when he is putting his proposed Bill together, to actually undertake talks with the Department of Trade and Industry so that if the construction Act does come forward in the format proposed, it will dovetail with the hon. member's Bill and not sort of duplicate because one thing we do not want to do is to duplicate in this situation.

Finally, I would just lend a little support to the hon. member for Ayre when he spoke of being cautious in relation to the UK's provisions in respect of this being still in its infancy, and I would ask the hon. member when he is putting pen to paper, that he keep very close tabs on the UK situation to see how it is working out, its success rate and any anomalies that might show, because after all, if we are going to bring something forward here for the Isle of Man we want to ensure that it is tailored to meet the Isle of Man situation and we certainly do not want to adopt any mistakes or anomalies that the UK invariably does with many pieces of its legislation.

Mr Gilbey: Mr Speaker, I very much agree with the remarks of the last hon member that we should be very cautious about this. It may seem a wonderful thing, like a lot of other trendy with-it things that are introduced, but like most of them, there are, I think, considerable disadvantages.

I know of no business that has requested it. I do not believe there have been any requests from the Chamber of Commerce and you must remember you say, 'Oh, the Chamber of Commerce is just big businesses.' It is not. When you hear that the size of a small business for this purpose is one that is going to employ under 50 people, the vast majority of businesses in this Island who are members of the Chamber of Commerce employ under 50 people and there are not many who employ more than that.

Then it is just one more interference in private enterprise and the free market. It does not surprise me that a Labour government in an adjacent isle should bring in such legislation, but is there any reason really for us to? As the hon. Treasury minister has said, ways will be found around it, and what will happen? That will just be to the benefit of lawyers, the people who, if we introduce this, will benefit most, and I am sure lawyers who will have yet another set of laws to fight in the courts.

I think you should ask, if we are going to introduce this, why shouldn't there be penalties for firms who are months or even sometimes years late in supplying goods and services which have been promised much earlier? This can cause enormous damage to their customer firms and very often the delays in paying people who cause such delay are the only way in which the customer firm can get any recompense at all without the expense of going to the courts.

I think another thing we should consider is it has been put as if this is only for business between businesses, i.e. between established businesses and not between a business and individuals, but I would argue that if you just have it that way round it is really not logical because a large private individual not paying could be just as harmful as another business not paying.

Then I think you have got to remember that although this may help some businesses, it could ruin others. After all in farming there has been very often a tradition of farmers taking months and months and months of credit until perhaps they could sell their cattle or the

harvest has been sold. Again with guest-house keepers I understood it was almost a Manx tradition that many of them drew goods and services in the summer but did not pay till the autumn when their money had come in from their customers.

So I do think we need to be very careful about this Bill and it is quite clear it is going to get leave to introduce, but when it is I think very, very careful consideration has got to be given to its justification and its economic effects.

Mr Rodan: Mr Speaker, I have listened to this debate and I must confess to being somewhat still confused as to the problem that this Bill is attempting to solve. The purpose of the Bill clearly says it is to allow businesses to impose interest on outstanding debts. Now, I am just wondering if the object of this legislation is in fact to allow businesses to enforce legally the imposition of interest on outstanding debts, because there is a difference. In my experience and it is my understanding that when a purchaser and a vendor arrange for the supply of goods and services one to the other there are terms and conditions of agreement on the back of an invoice and I have seen terms and conditions of supply which state terms 30 days and thereafter 1¹/₂ per cent or 2 per cent, whatever it is, shall be imposed after that date monthly. Now, I presume there is nothing illegal in doing that, but the implication of the Bill is that it is currently not possible to impose interest on outstanding debts.

Is what we really mean and may I ask the mover, to allow the enforcement of the imposition of interest? Are we saying that the current provisions of fairly standard terms and conditions of supply are not in fact enforceable and it is a bit of a bluff saying 1¹/₂ per cent will be imposed after a month for late payment? Because if it is a bluff and experience has shown that that is not legally tenable to do such a thing, then I agree something should be done about it.

But certainly the purpose of the proposed legislation implies a problem that I do not think exists in the way it is defined in the paper but may well exist if the hon mover would be kind enough to just explain it a bit further.

Mrs Crowe: Mr Speaker, I support the hon. member in his leave to introduce but I would ask the hon. member to consult fully with the Office of Fair Trading. It is our officers that enforce the Supply of Goods and Services Act and indeed we deal on a daily basis with unfair terms and conditions of contract, and we will afford the hon. member all co-operation by way of our expertise within the department.

Mr Brown: Mr Speaker, just really to give support to the principle of what the hon. member is endeavouring to do in progressing this issue and I think whilst members may well question a number of issues, I do believe, based on what I heard from the hon. member, that whether or not somebody decides to implement this is a matter of choice for that individual, that company or whatever, and I think that that in itself is the important issue.

One thing I would say is that it is likely to be a very complex issue, this, trying to deal with it, because of other contractual and legal issues that may well reflect or interplay with the proposals the member has and I am sure that it is going to take quite some time for him to get that aspect of it sorted out.

But I do accept the basic principle that where somebody is deliberately withholding payment for their own reasons which are financial, in other words financial gain to them, at the

expense of somebody else, then in fact the ability to charge interest, which I understand will then become part of the debt if they end up going to court, in my view is the right way forward. There are people out there who employ subcontractors or purchase goods direct from retailers or others and deliberately withhold payment because it is financially to their benefit. It reduces their overdraft which in itself reduces their own financial commitment and they pass basically their overdraft onto the other party who may well be weaker.

One of the issues I raised some time ago was when we were dealing with bankruptcy and when we dealt with that, if a person went bankrupt, then of course there were all sorts of legal things that came in the way that said they could not do this, that and the other, based on really Victorian law, but we do not tackle the person who might be responsible for making that person go bankrupt, and this to some degree might well play a part in that, in other words endeavouring to help that person recover what is a genuine debt which might well be his costs elsewhere.

The point I would say to the hon member, or a couple of points, is I think that the interest rate is likely to have to be reasonably high because otherwise it is ineffective, and the other point I would say is the issue of employees. If I picked up the member correctly, and he may be able to clarify, I think he mentioned whether it was 50 or less employees. One of the things we have to be careful of today is of course we have many, many large construction firms who operate in this Island and elsewhere but especially in this Island and they only employ about six people, but they subcontract through self-employment and other means to hundreds of people to do the contract, and I think it is important to ensure that they are not let out of the net in some way.

The other point I would say is the hon. member for Glenfaba made the point about traditional credit, and I have to say that traditional credit is a thing between the two parties. If, however, one party does not want to allow it, then I think that that is their right. However, if the other party decides to keep their tradition alive, I do not think they should keep that alive at no cost to the party they are actually keeping it alive against. So I think it is something where the two parties themselves have to make an agreement and if they do not wish to implement an interest charge or they are happy to allow a debt to carry on for another month, well that is fine, let them do that. This, as I understand it, is where one party is aggrieved because the other party is not paying its dues and I think there should be some way of dealing with that.

So I look forward to the member coming forward with this. I think it is prudent to examine the issue. I do not know the complexities of it, I do not know how broad it will be, but I do think that the principle of what the member is raising is correct and I look forward to having a Bill that hopefully I will be able to support when it comes before the House in the near future.

The Speaker: I call upon the hon. member for Onchan, Mr Cannell, to reply.

Mr Cannell: Thank you, Mr Speaker. I am very grateful for what I hope I perceive as support for this Bill across the benches of the House and not least from the Treasury minister who offered me his support for this, with some reservations of course, and I am also grateful for your ruling, sir, that apparently this presentation of leave to introduce does not require prior Treasury concurrence. Even if it had it would have been no intention of mine to be disrespectful to the Treasury in actually going for that but I was advised of that benefit, and of

course this legislation comes forward to try to satisfy the call which was made by yourself, sir, last week for more measures to be put before this hon. House.

So, yes, Mr Treasury minister, I am content that the points which you put forward will be addressed, particularly your view that the Bill will need to be tightly drafted, and there is no denying that the complexity of this issue will tax not only myself but all the other departments with which I will consult, and to those who have made a plea for their departments, the Department of Trade and Industry and the Office of Fair Trading, I readily acknowledge, as I said at the conclusion of my introduction, that that most certainly will be the case.

The hon. member for Ramsey, Mr Singer, supported it as well and asked whether it would cover legally based Manx companies, whether this in fact would be enforceable to cover consumers as well. I do see that being the case and I also did mention that I was hopeful that legislation in this regard would be fully reciprocal between the two jurisdictions of the United Kingdom and the Isle of Man. I feel it would be a waste of time to have an Isle of Man Act covering only Isle of Man businesses, particularly with the interplay now which we have between all of the companies, and in a later speech further on, just in fact at the conclusion, I think it was the hon. member for Castletown who said that businesses might well try to get round this by having only small groups of people in that. The whole point is of course that what we are talking about here is catering for small businesses and I do feel really that there is a need for this legislation.

The hon. member for Douglas South, Mr Cretney, asked about the 8 per cent rate. As I said, that is potentially capable of being varied but at the moment I am relying upon the information I was provided with, that the rate fixed by the deemsters in civil cases is in fact 8 per cent at the moment, and that is fairly recent, so that is why I relied upon that, and coincidentally the 8 per cent is the rate being levied under the United Kingdom legislation. That of course could vary considerably and might be needed to be built in as a flexibility.

The hon. member for Ayre, Mr Quine - he welcomed the Bill as well. He said it might be a little bit too early, and in fact he might be right on that. Clearly this is not going to come to the floor of this hon. House instantaneously. I think it will take a long time for this to be worked right through to a published Bill and I think that will enable us also to take into account the possibility of the flaws which might have come up from the United Kingdom legislation, and that is no bad thing. We will incorporate any difficulties or I shall try to get those incorporated into the draft legislation to cater for just such difficulties that may have arisen, though in fact I did say earlier on that in fact the legislation for the United Kingdom is not yet actually complete. The legislation came in in three parts and only two of those parts have actually been brought forward so far. The remaining point is to impose such responsibility upon all businesses trading between each other, and that, I hope, also will interest the point made by another member who said it could be a large individual. Now, I do not think many individual people would be dealing with contracts worth many thousands of pounds. I think most people would not undertake to deal with an individual, they would be dealing with a company of which that individual is a representative. But it might be the case and that also is acknowledged.

The hon. member Mr Houghton - he said that the big boys will always get round this. I am afraid that is true of most laws of the land. If anybody is determined to get round a law, then if they have got the resources and they have got the deviousness and if they have got the will to do it, I regret to say that nearly every law can be superseded.

He also pointed to the fact that he knew of a customer with £2,500 outstanding. I think we would all know of people in that position and with considerably larger sums, and we did hear of one individual who was so frustrated at trying to get satisfaction for his debt that he was prepared to go to the lengths of undoing the work that he had done because he was unable to get satisfaction. As far as I remember he drove a JCB through a wall which he built, purely because he could not get payment for it.

The hon. member for West Douglas, Mr Downie - he said that the construction industry was taking two or three years to pay accounts. I was not aware it was that far out but in fact he is of course perfectly within his judgement to advise me of that and if it is that bad, then that is every justification, I feel, for having a look at this.

It is a two-way basis of course. The retention of moneys in contracts is a safeguard for the work by the customer. The customer paying can retain the money but equally of course the person doing the job can also retain some of their services if they do not feel the customer is honouring previous payments. So an arbitration process does exist, and also another member - I think it was Mrs Cannell - alluded to the fact that there are a number of measures already being contemplated by the Department of Trade and Industry in the construction industry. I would not like hon. members, though, to think this is all aimed at the construction industry. It certainly is not.

I am also grateful to Mr Downie for pointing out that the matter of income tax also is perhaps potentially thorny where there are small amounts. I think it is a matter of principle really. Previously of course the Income Tax demanded interest from you if you were late paying. That was before ITIP of course where you just paid your bill annually, and some of us lament the days when you just drew the figure out rather than supporting the Income Tax Division by paying ITIP where they get the use of your money throughout the year rather than when you honoured the debt at the due end of the year, but nevertheless it would be welcome because of course there were so many people who were not able to find the sum requisite to pay their income tax debts. Eventually after much pressure the Treasury was persuaded, I think, to offer interest on the payment of income tax. I actually have not ever heard of anybody who has ever got any -

A Member: Neither have I.

Mr Cannell: - but in fact I am sure in the larger amounts it does have to be honoured, but they are, I must admit, pretty good at paying you a rebate on the odd occasion you run your income tax bill over the top of what is required to satisfy your assessment. They are very good at that and that is probably because they therefore would not make it liable to interest within the month.

I am also grateful for my hon colleague from Onchan, Mr Karran, for being the formal seconder to this. He raised a number of issues as well and said he hoped the new hospital contract was not to be included in this, and as a fellow member of the Department of Health and Social Security, I certainly hope so also and I hope that there is no outstanding debt in respect of all the work being carried out there.

There very definitely is or was an attitude of 'See you in court.' It has faded a bit. Ten years ago it was quite common - 'Well, hard luck, mate, see you in court', and of course the average person just could not afford to carry that debt and had to settle for something less.

Mrs Cannell, as I have mentioned, in the Department of Trade and Industry - I am mindful of the talks which are taking place there and I do hereby undertake to consult her department and all others who are contained within the proposed legislation here.

The hon. member for Glenfaba, Mr Gilbey, urged caution and he pointed to the disadvantages. It is no bad thing to have someone standing up and saying that there might be pitfalls in this, and I would not for a second deny that indeed there might be and I shall take into account the fact that you say that there might be some problems with this.

'One more interference with private enterprise', you said. In fact we have heard that cry recently over many measures and, well, I am afraid that if it is an imposition on private enterprise, they can avoid that interference quite easily by paying their bills on time. No-one will have any difficulty with proposed legislation like this if they pay within the statutory time and it is not an obligation that they should automatically have interest charged. It is where the person chooses to impose that at the time of contract.

Why not penalties on the supplies of goods? It is a good point and certainly that might be incorporated.

I am not too sure about the guest-houses having that insult applied to them, that they do not pay up front. I think we are going back to the 1950s there where in fact there was no winter work whatever and the guest-houses had to pay their bills in the springtime for the preceding winter's supplies. I certainly do not think that is the case now.

The hon. member for Garff Mr Rodan - he says he is confused as to the purpose of it. I was sorry to hear him say that because I tried to be quite explicit in it. He says is the enforced interest at discretion? It most certainly is. It is not, as I have mentioned, a supplier who would be obliged to charge statutory interest. It is to get those people who will not pay it. So, yes, I acknowledge perhaps the words were ill chosen. Enforcement is what we are talking about, because, as I have said already in a legal interpretation here, the entire discretion of the court is required when the high court grants judgment. That is the position at the moment, so the 2 per cent per month or whatever, which would add up to a tidy sum on a big contract, probably is something of a bluff at the moment, though what is wrong with a bluff if it actually makes people do what they should have been responsible for doing correctly to start with?

The hon. member for Castletown also offered his support and said that there were some people out there who were deliberately withholding payment. That is the exact point and I know of certain individuals who just do not pay debts at all until they receive the red notice. They do it and they think it is funny. It is not funny if you are having the debt outstanding and sweating on getting that payment.

So finally I would say this legislation will not be forthcoming on an immediate basis, it will need a lot of working up, but the principle of it is that it is about honour and it is about a moral obligation to pay particularly the small man against the big boys, and I urge the support of this hon. House in the move to bring forward legislation to that effect.

The Speaker: Hon members, the motion is that printed at item 17 on your order paper, that leave be given to introduce a Late Payment of Commercial Debts (Interest) Bill to allow businesses to impose interest on outstanding debts. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, that brings to a conclusion our order paper for this morning. All that remains for me now is to express the wish that you all enjoy such break as you may get over the Easter weekend. The House will now stand adjourned till Tynwald on April 20th. Thank you, hon. members.

The House adjourned at 12 p.m.